

Effective 5/13/2014

73-3-29 Relocation of natural streams -- Written permit required -- Emergency work -- Violations.

- (1) Except as provided in Subsection (2), a state agency, county, city, corporation, or person may not relocate any natural stream channel or alter the beds and banks of any natural stream without first obtaining the written approval of the state engineer.
- (2)
 - (a) The state engineer may issue an emergency permit or order to relocate a natural stream channel or alter the beds and banks of a natural stream as provided by this Subsection (2) and Section 63G-4-502.
 - (b) Subject to the requirements of this section, a person may take steps reasonably necessary to alleviate or mitigate a threat before a written permit is issued if an emergency situation arises which involves:
 - (i) immediate or actual flooding; or
 - (ii) threatens the health or well-being of a person.
 - (c)
 - (i) If a threat described in Subsection (2)(b) occurs during normal working hours, the state engineer or the state engineer's representative must be notified immediately of the threat. After receiving notification of the threat, the state engineer or the state engineer's representative may orally approve action to alleviate or mitigate the threat.
 - (ii) If a threat described in Subsection (2)(b) does not occur during normal working hours, action may be taken to alleviate or mitigate the threat and the state engineer or the state engineer's representative shall be notified of the action taken on the first working day following the action.
 - (d) A written application outlining the action taken or the action proposed to be taken to alleviate or mitigate a threat described in Subsection (2)(b) shall be submitted to the state engineer within two working days following notification of the threat to the state engineer or the state engineer's representative.
 - (e)
 - (i) The state engineer shall inspect in a timely manner the site where the emergency action was taken.
 - (ii) After inspection, the state engineer may impose additional requirements, including mitigation measures.
 - (f) Adjudicative proceedings following the emergency work shall be informal unless otherwise designated by the state engineer.
- (3) An application to relocate any natural stream channel or alter the beds and banks of any natural stream shall be in writing and shall contain the following:
 - (a) the name and address of the applicant;
 - (b) a complete and detailed statement of the location, nature, and type of relocation or alteration;
 - (c) the methods of construction;
 - (d) the purposes of the application; and
 - (e) any additional information that the state engineer considers necessary, including plans and specifications for the construction of works.
- (4)
 - (a) The state engineer shall, without undue delay, conduct investigations that may be reasonably necessary to determine whether the relocation or alteration will:
 - (i) impair vested water rights;
 - (ii) unreasonably or unnecessarily affect a recreational use or the natural stream environment;

- (iii) unreasonably or unnecessarily endanger aquatic wildlife; or
 - (iv) unreasonably or unnecessarily diminish the natural channel's ability to conduct high flows.
- (b) The state engineer shall approve the application unless the relocation or alteration will:
 - (i) impair vested water rights;
 - (ii) unreasonably or unnecessarily adversely affect a public recreational use or the natural stream environment;
 - (iii) unreasonably or unnecessarily endanger aquatic wildlife; or
 - (iv) unreasonably or unnecessarily diminish the natural channel's ability to conduct high flows.
- (c) The state engineer may approve the application, in whole or in part, with any reasonable terms to protect vested water rights, a public recreational use, the natural stream environment, or aquatic wildlife.
- (5) No cost incurred by the applicant, including any cost incurred to comply with the terms imposed by the state engineer, is reimbursable by the Division of Water Rights.
- (6) Except as provided in Subsection (2), a person who knowingly or intentionally relocates a natural stream channel, or alters the bed or bank of a natural stream channel without first obtaining the written approval of the state engineer is guilty of a crime punishable under Section 73-2-27.
- (7) The state engineer may issue an order for the repair and restoration of the bed and banks of a natural stream channel altered contrary to, or without, a permit issued for that purpose.

Amended by Chapter 369, 2014 General Session